

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number

Q77793

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on _____

Application Number
10/675,972

Filed
October 2, 2003

Confirmation Number: 6295
First Named Inventor
Yacine EL MGHZLY

Signature
Typed or
printed name

Art Unit
2454

Examiner
NGUYEN, DUSTIN

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

- ☒ The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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CUSTOMER NUMBER

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- ☐ applicant/inventor.

/Ruthleen E. Uy/

Signature

- ☐ assignee of record of the entire interest. See 37 CFR 3.71.
☐ Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

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June 3, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- ☒ *Total of 1 form is submitted.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q77793

Yacine EL MGHZLY, et al.

Appln. No.: 10/675,972

Group Art Unit: 2454

Confirmation No.: 6295

Examiner: NGUYEN, DUSTIN

Filed: October 2, 2003

For: ACTIVE MEDIUM FOR RESERVING RESOURCES IN A COMMUNICATION NETWORK

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated February 3, 2011, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue: Claims 1-19 are all the claims pending in the application.

Claims 1-6, 8-11, 13, 14 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang (US Patent No 6,693,912), in view of Nomura et al. (US Patent No 6,930,984). Applicant traverses the rejection.

The Examiner asserts that the combination of Wang and Nomura teach the elements of claim 1. However, Applicant submits that the combination of Wang with Nomura does not teach the claimed elements for at least the reasons submitted below.

Specifically, Wang is directed to an ATM network. See col. 3, lines 55-61. Wang does not teach or suggest reserving resources in a packet communication network and that the packet network is a hybrid network comprising both active nodes and passive nodes.

In response to Applicant's arguments, on page 2 of the Office Action, the Examiner asserts that col. 6, lines 4-14 teaches the claimed hybrid network. However, Wang discloses end-user node 1A generates a conventional passive packet, which is received by active gateway

4A' in LAN 2A. As illustrated in Fig. 4 of Wang, all of the gateways are active gateways. Wang discloses a passive packet, but does not teach a passive node of a hybrid network.

The Examiner further asserts that the limitations regarding the hybrid network are recited in the preamble and the preamble is generally not accorded any patentable weight.

"If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is 'necessary to give life, meaning, and vitality' to the claim, then the claim preamble should be construed as if in the balance of the claim." *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999); MPEP 2111.02. In the present case, the preamble, which recites that packet network is a hybrid network comprising both active nodes and passive nodes, is necessary to give life and meaning to the claim. The type of network clearly limits the structure of the exemplary embodiment as recited in claim 1.

The Examiner asserts that col. 4, lines 5-15 of Wang teach "sending **a reservation packet** comprising **a request for reservation of resources constituting an execution environment for the active data flow.**" The Examiner reasons that a program is generated describing QoS requirements and the program is placed in an active packet.

However, Wang teaches that when end-user node 1A requests a connection to end-user node 1B, end-user node 1A generates a program describing its QoS requirements and the QoS mapping methods to be employed. The program specifics, for example, traffic parameters and other QoS parameters. The program is placed in an active packet P, which is encapsulated for transmission through LAN 2A. Therefore, the program which is generated by an end-user node describes the QoS requires. This does not teach or suggest sending **a reservation packet** comprising a request for reservation of resources constituting an execution environment for the active data flow.

Wang at most discloses that the program code describes the QoS scheme used in LAN 2A, the resource reservation protocol (RSVP, for example), the protocol stack, and other necessary information. See col. 6, lines 5-15. Further, Wang discloses that active gateway 4C' constructs a new QoS mapping program, again specifying QoS requirements and mapping methods, including traffic parameters, QoS parameters, the QoS scheme in network 3A, a

resource reservation protocol, a protocol stack, and other necessary information. See col. 6, lines 30-37.

However, there is no teaching or suggestion of sending a reservation packet comprising a request for reservation of resources constituting an execution environment for the active data flow, as claimed.

In response to Applicant's arguments, on page 3 of the Office Action, the Examiner asserts that Wang discloses active gateways that have functions that enable the active gateway to perform QoS mapping dynamically. The Examiner further describes the functions of the active gateways.

However, the Examiner still has not identified where Wang teaches that the reservation packet comprises a request for reservation of resources constituting an execution environment for the active data flow. The Examiner is merely describing the functions of the active gateway. For purposes of further clarification of the claimed reservation packet, Applicant refers the Examiner to, for example, pages 6-8 of the Applicant's specification which describes the reservation packet. The functions performed by the active gateways of Wang are not reservation packets.

The Examiner further asserts that the payload of an active packet specifies QoS requirements and QoS mapping methods. Wang discloses that the payload of an active packet P specifies QoS requirements and QoS mapping methods in the form of a program. However, quality of service requirements do not teach a request for reservation of resources, as claimed.

The Examiner asserts that col. 4, lines 5-10 and col. 6, lines 30-37 of Wang teach that **"the reservation packet comprises parameters which are common to the active nodes of the network."** The Examiner reasons that the QoS parameters and traffic parameters are common to active nodes of the network.

The aspects of Wang cited by the Examiner describe the program in the active packet P'. Further, the QoS parameters and traffic parameters are included in the program. However, this does not teach or suggest that a reservation packet comprises parameters which are common to the active nodes of the network.

Assuming the Examiner is citing an active packet of Wang for teaching the claimed reservation packet, there is no teaching or suggestion that the active packet **comprises**

parameters which are common to the active nodes (active gateways of Wang as cited by the Examiner) of the network. Merely because the active gateway 4F returns are message indicating that the quality of service is maintained, does not teach that the active packet (reservation packet as cited by the Examiner) comprises parameters which are common to the active gateways of Wang.

The Examiner states that Wang does not teach “wherein said resources constituting the execution environment [for the active data flow comprising a set of active packets]comprise at least one of memory, passband size, and processing time,” and cites Nomura to cure the deficiency.

The aspects of Nomura cited by the Examiner describe that RSVP is a control protocol for reserving resources including memory resources. However, this does not teach or suggest that the resources constituting the execution environment [for the active data flow comprising a set of active packets]comprise at least one of memory, passband size, and processing time, as claimed. For at least the above reasons, claim 1 and its dependent claims 2-19 should be deemed allowable.

Claims 7, 12 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang (US Patent No 6,693,912), in view of Nomura et al. (US Patent No. 6,930,984), and further in view of Eichert et al. (US Patent No. 6,393,474). Claims 7, 12 and 15 should be deemed allowable by virtue of their dependency to independent claim 1 for at least the reasons set forth above. Moreover, Eichert does not cure the deficiencies of Wang and Nomura.

Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang (US Patent No 6,693,912), in view of Nomura et al (US Patent No 6,930,984), and further in view of Simpson et al. (US Patent Application No 2003/0084151). Claim 16 should be deemed allowable by virtue of its dependency to independent claim 1 for at least the reasons set forth above. Moreover, Simpson does not cure the deficiencies of Wang and Nomura.

Claim 17 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang (US Patent No 6,693,912), in view of Nomura et al (US Patent No 6,930,984), and further in view of Frouin et al. (US Patent Application No 2005/0018607). Claim 17 should be deemed allowable by virtue of its dependency to independent claim 1 for at least the reasons set forth above. Moreover, Frouin does not cure the deficiencies of Wang and Nomura.

Claim 18 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang (US Patent No 6,693,912), in view of Nomura et al. (US Patent No 6,930,984), and further in view of Simpson et al. (US Patent Application No 2003/0084151) and Frouin et al. (US Patent Application No 2005/0018607). Claim 18 should be deemed allowable by virtue of its dependency to independent claim 1 for at least the reasons set forth above. Moreover, Simpson and Frouin do not cure the deficiencies of Wang and Nomura.

Respectfully submitted,

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